THE HONOURABLE SRI JUSTICE V. ESWARIAH

WRIT PETITION No.2609 OF 2006

Dated: 13-02-2006

Between

S. Karimulla, S/o. Rahim Saheb,

Occ: Business, R/o. Door No.19/

420, S.F. Street, Cuddapah,

and others.

...PETITIONERS

AND

Cuddapah Municipality, rep. by its

Commissioner, Cuddapah District

and others.

...RESPONDENTS

ORDER:

This writ petition is filed seeking a Writ of Mandamus to declare the action of the respondent No.1 dated 04.02.2006 in asking the petitioners to surrender their properties and hand over the original documents relating to the petitioners properties bearing Municipal Door No.20/253, 20/254, in B.K.M. Street and 8/194 in Almaspet, Cuddapah, of the first petitioner, Municipal Door No.8/1146-1, Almaspet, Cuddapah, of the second petitioner, D.No.19/420, 19/420(1) to 19/420(8) at S.F. Street and 21/394, 21/395(2) to 21/395(5) at Veeraswamy Mundy Street, Cuddapah, of the third petitioner, D.No.21/356, 21/354 and 21/355 (1) at S.F. Street, Cuddapah, of the fourth petitioner, D.No.10/96 to 10/98 and 10/89 at Bellary Road, of

the fifth petitioner, D.No.21/34, Trunk Road, Cuddapah, of the sixth petitioner, D.No.21/130 and 21/131, Trunk Road of the seventh petitioner and D.No.4/703, Gunta Bazar, Old Bus Stand Road, Nagarajupally Village, Cuddapah of the eighth petitioner and threatening to demolish the same without following due process of law as illegal and arbitrary.

Learned counsel for the petitioners submits that the Cuddapah municipality has been recently upgraded as Municipal Corporation.
In view of the traffic congestion and to have free flow of traffic the Cuddapah Municipal Corporation has decided to take up the road-widening program, for which they have identified 26 roads in the entire cuddapah municipal corporation. Learned counsel for the petitioners further submits that the petitioners are not at all against the road-widening program of the respondents and they have no objection for the said program if their premises are acquired and if proper compensation is paid.

The only grievance of the petitioners is that the respondents without issuing any notices, without paying any compensation for their structures or the lands and without following due process of law, are threatening to demolish the existing structures for the purpose of road-widening.

The learned counsel for the petitioners further submits that the action of the respondents without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Municipal Corporations Act, 1955 (for short 'the Act').

This Court disposed of a number of writ petitions directing the respondents not to demolish the houses of the private citizens without following due process of law.

Having regard to the facts and circumstances of the case,
the writ petition is disposed of directing the respondents not to demolish the structures or take away any portion of the properties of the petitioners and not to dispossess them without following due process of law under Sections 146 and 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894.

V. ESWARAIAH, J

February 13, 2006

DSK